

## REMARKS

In the Action, Claims 1-17 have been rejected under 35 U.S.C. § 112, second paragraph. Specifically the Examiner asserts that in Claim 1, the meaning of “channel state value” is unclear from the specification. The Examiner also asserts that Claims 8 and 11 have the same ambiguity as Claim 1, where Claim 8 uses the term “channel state measurement”. The claims have not been rejected in view of the prior art, and are believed to be allowable once the rejection under § 112 has been overcome.

A Notice of Non-Compliant Amendment (37 CFR 1.121) was issued on January 10, 2006 in response to the Applicants' Amendment dated December 19, 2005. A status identifier has been added to indicate that Claim 10 is “Original” in response to the Notice. It is believed that the Amendment, as submitted herein, is now compliant.

The present application recites a determination whether to construct and transmit a Physical Layer Packet (PLP) in a single format or in a double format on the basis of the change history of a mobile station-requested data rate. If the mobile station-requested data rate changes greatly, this implies that the mobile station moves quite fast in an unstable channel environment such that it is preferable to transmit data in the single format rather than in the double format for the same data rate. If the mobile station requests the same data rate for a predetermined time, which implies an almost stationary mobile station in a stable environment, it is preferable to transmit data in the double format (Page 5 Line 17- Page 6, Line 3). The mobile station transmits an index or channel state value to the base station representing the mobile station-requested transmission rates. The base station receives and stores the index (channel state value) and executes an algorithm providing a numerical representation of changes in the mobile station-requested transmission rate (Page 11, Lines 23-26; Page 13, Equation 3; Page 14, Equation 4; Page 13, Lines 20-24; and Page 14, Lines 6-10). The output of the algorithm, a function  $\alpha$ , is compared against a predetermined threshold and the format of the PLP is determined according to the comparison.

The specification clearly recites that the index is based on the mobile station-requested data rate. The summary of invention describes this mobile station-requested data rate history and comparison process for transmission format determination as being based on a channel state value.

The specification has been amended as indicated above to clarify that the meaning of channel state value is a measure of channel conditions based on mobile station-requested transmission rates. The amendment to the specification contains no new matter.

Claims 1, 8 and 11 have been amended to recognize that channel state value is a measure of channel conditions based on mobile station-requested transmission rates. Claim 8 has also amended to recognize that the format determination is made based on the channel state value that is transmitted from the mobile station and is not a "measurement".

The application, containing Claims 1-17, is now believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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